

REMARKS

In the Office Action mailed on May 22, 2003 by the United States Patent and Trademark Office, the Examiner rejected claims 1-27. Applicant has amended claims 1-7, 9-11, 13, 15-16, 18-20, 22, and 24-27 for clarification, correction of obvious spelling, grammatical, and typographical errors, and for claim broadening and not in response to the Examiner's rejections. After entry of this Amendment, claims 1-27 remain in this application. Reconsideration is respectfully requested in light of the foregoing amendments and the following remarks. The foregoing amendments and the following remarks are believed to be fully responsive to the Office Action mailed May 22, 2003 and also render all currently pending claims at issue patentably distinct over the references of record.

I. REJECTIONS UNDER 35 U.S.C. 103

The Examiner rejected claims 1, 10, and 19 under 35 U.S.C. 103(a) as being unpatentable over Law, Jr. et al. (Law) US Patent 6,370,654, and further in view of Tosey, et al. (Tosey) US Patent 6,392,990. Applicant respectfully traverses this rejection.

As to Applicants' claim 1, Law fails to disclose or suggest "detecting a network address of a non-fault-tolerant network node present in one of a primary network and a redundant network of a plurality of networks that form a fault-tolerant network." (Claim 1, lines 3-5, as amended). Applicants respectfully submit that the method steps disclosed by Law do not explicitly include the step of "detecting a network address" (Law, Abstract, col. 1, line 47-col. 2, line 14 and Fig. 1). Law's FIG. 1 and FIG. 2 show one communication link 17(a, b, c, or d, not necessarily a network) per non-fault-tolerant computing platform 18, 20, 36, and 38. Therefore, Applicant's respectfully submit that "detecting a network address" is not explicitly or inherently disclosed in Law, which Applicants believe shows networked fault tolerant nodes 32 each serving as a hub 32 having non-fault-tolerant computing platforms 36 and 38 at the far ends of spokes 17 from each respective networked hub 32. By the same logic, Law does not teach or suggest "determining the single network of the plurality of networks on which the non-fault tolerant network node exists" (Claim 1, lines 6-7).

With respect to Tosey, Applicants respectfully submit that this reference does not teach or suggest any communications with non-fault-tolerant nodes, and so does not teach or suggest "detecting a network address of a non-fault-tolerant network node" or "determining

the network of the plurality of networks to which the non-fault-tolerant node is coupled" (Claim 1, lines 3-7). Because Tosey does not make up for at least the above-noted deficiencies in Law, the combination of Law and Tosey does not teach or suggest every element of Applicants' claims and a *prima facie* case of obviousness cannot lie.

Moreover, Applicants respectfully submit that Tosey is not in the same field of endeavor as Law, as Tosey teaches and suggests only fault-tolerant nodes (e.g. those having a primary and redundant network connection), and does not disclose non-fault-tolerant nodes. (Tosey, Abstract). Because the method of Tosey is essentially to transfer failed fault-tolerant nodes to the redundant network, (Tosey, Abstract) the teaching of Tosey is incompatible with systems having non-fault tolerant nodes, which nodes, by definition, have only one network connection. Thus, Applicants respectfully submit, a person of ordinary skill in the art would not combine Tosey and Law, and could not arrive at Applicants' claimed invention if obliged to combine them.

Applicants respectfully submit that a *prima facie* case of obviousness has not been shown based on Law in further light of Tosey, and request that independent claim 1, as well as independent claims 10 and 19, be allowed. Applicants further respectfully request that dependent claims 2-7, 11-16, and 20-25 be allowed as depending from allowable independent claims 1, 10, and 19, respectfully, and as being independently allowable in light of the above remarks.

The Examiner rejected claims 8, 17, and 26 under 35 U.S.C. 103(a) as being unpatentable over Law and further in view of Tosey. Applicants respectfully traverse these rejections.

As to Applicants' independent claims 8, 17, and 26, Law -Tosey does not disclose "transmitting data from a transmitting node to a non-fault tolerant network node over a primary network; and transmitting data from the transmitting node to the non-fault tolerant network node over a redundant network" (Claim 8, lines 2-5). The Examiner should appreciate that non-fault-tolerant nodes, by definition, directly connect to only one of a primary and a redundant network. Accordingly, Applicants' claimed capability to transmit to a particular non-fault-tolerant node by transmitting from a particular transmitting node both "over a primary network and ...over a redundant network" is extraordinary and, as explained below, is neither taught nor suggested by Law or Tosey, either solely or in combination.

Applicants respectfully submit that the portions of Law and Tosey cited by the Examiner do not teach or suggest transmitting data from a single transmitting node to a particular non-fault-tolerant node both "over a primary network and ... over a redundant network" (Claim 8, lines 3-5). Specifically, Law teaches only one communication link 17 over which to communicate with each of his non-fault-tolerant nodes (Law, FIG. 2), and so cannot teach or suggest "transmitting ...to a non-fault tolerant network node over a primary network and ...over a redundant network" (Claim 8, lines 3-6). Tosey does not teach or suggest any transmitting to fault-tolerant nodes, having disclosed only fault-tolerant network nodes.

In view of the foregoing, Applicants respectfully submit that the combination of Law and Tosey does not teach or suggest what Applicants claim. Accordingly, a *prima facie* case of obviousness cannot lie, and Applicants respectfully request that independent claims 8, 17, and 26, be allowed as amended. Applicants further respectfully request that claims 9, 18, and 27 be allowed as depending from allowable independent claims and as being independently allowable in light of the above remarks.

It is respectfully submitted that the claims are not rendered obvious in view of the cited references of record. Therefore, the Examiner is respectfully requested to withdraw the rejections of claims 1-27 under 35 U.S.C. 103(a).

II. CONCLUSION

It is respectfully submitted that the above-identified application, as amended, is now in condition for allowance and such allowance is therefore earnestly requested by the Applicant. Should the Examiner have any questions or wish to further discuss the above-identified patent application, the Applicant requests that the Examiner contact the undersigned at (480) 385-5060.

If for some reason the Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,



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